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3 UNITED STATES DISTRICT COURT  
4 EASTERN DISTRICT OF NEW YORK

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6 ATLANTIS INFORMATION TECHNOLOGY, GmbH,  
7  
8 Plaintiff,

9 - against - Case No.  
10 06-CV-3921  
11 (ADS) (WDW)

12 CA, INC.,  
13 Defendant.

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<p style="text-align: right;">90</p> <p>1 Alexander Gaugler</p> <p>2 going to need you to tell me what the date is</p> <p>3 associated with that high level qualifier you</p> <p>4 mentioned.</p> <p>5 A. 1998, 08/24.</p> <p>6 Q. Okay. And then you said so on and</p> <p>7 so on.</p> <p>8 A. Entries and exits, or exits and</p> <p>9 entries, rather.</p> <p>10 Q. Is there more than one entry on this</p> <p>11 chart?</p> <p>12 A. Yes.</p> <p>13 Q. How many such entries are there?</p> <p>14 Are there a lot?</p> <p>15 A. It's a lot.</p> <p>16 Q. Well, how about you point out the</p> <p>17 first one to me so I know what they look</p> <p>18 like.</p> <p>19 Let's start there.</p> <p>20 A. Your question is since the version 2</p> <p>21 or since ever? What was the question?</p> <p>22 Q. There is a list of all major</p> <p>23 enhancements.</p> <p>24 A. Yes.</p> <p>25 Q. So any major enhancement on this</p>	<p style="text-align: right;">92</p> <p>1 Alexander Gaugler</p> <p>2 is only one entry that is in existence.</p> <p>3 So the first might be the last.</p> <p>4 Q. Can you find that out, now?</p> <p>5 Is it likely to be 1997?</p> <p>6 A. 1997, 09/12 is entry SET.</p> <p>7 Q. Are you finished with your answer?</p> <p>8 A. Yes.</p> <p>9 Q. Does CA have any control over the</p> <p>10 numbers Atlantis assigns to its different</p> <p>11 versions of E/NAT?</p> <p>12 A. No.</p> <p>13 Q. Has Atlantis at any time started</p> <p>14 work on a release 3.0 of E/NAT?</p> <p>15 A. Yes.</p> <p>16 Q. When did Atlantis start work on</p> <p>17 release 3.0?</p> <p>18 A. I have to look at my notes.</p> <p>19 Q. What is your best estimate?</p> <p>20 A. It was around 2000.</p> <p>21 Q. What was the planned major</p> <p>22 enhancement in functionality between the 2.0</p> <p>23 series of E/NAT and the 3.0 series of E/NAT?</p> <p>24 A. You are asking for the</p> <p>25 functionality? What are you asking for?</p>
<p style="text-align: right;">91</p> <p>1 Alexander Gaugler</p> <p>2 chart.</p> <p>3 A. So the member conversion table was</p> <p>4 one.</p> <p>5 Q. What is the date on that?</p> <p>6 A. 1997, 09/12.</p> <p>7 And in 1997, 09/12, again, the entry</p> <p>8 SET.</p> <p>9 You were asking for the first time</p> <p>10 we introduced as the a new user exit, 1997,</p> <p>11 12/30.</p> <p>12 Q. What is the most recent new user</p> <p>13 exit?</p> <p>14 A. If I did not miss anything, 1998,</p> <p>15 10/08.</p> <p>16 Q. 1998, 10/08 is what? The most</p> <p>17 recent exit?</p> <p>18 A. New exit, yes.</p> <p>19 Q. I honestly forget whether I asked</p> <p>20 you this.</p> <p>21 What is the most recent entry?</p> <p>22 You earlier were talking about exits</p> <p>23 and entries; correct?</p> <p>24 A. I am not absolutely sure, but I</p> <p>25 think there is only one entry and it's -- it</p>	<p style="text-align: right;">93</p> <p>1 Alexander Gaugler</p> <p>2 Q. I was asking, what were the big</p> <p>3 improvements planned for release 3.0?</p> <p>4 A. Well, one was to get a final</p> <p>5 structure that becomes independent from the</p> <p>6 database.</p> <p>7 Another one was to remove some</p> <p>8 limits in our table definitions.</p> <p>9 And another one was package shipment</p> <p>10 using utility only.</p> <p>11 MR. BERNSTEIN: Loading?</p> <p>12 THE INTERPRETER: Only.</p> <p>13 Q. What is the current status of</p> <p>14 release 3.0?</p> <p>15 A. We have stopped it.</p> <p>16 Q. When did you stop it?</p> <p>17 A. Again, between 2002 and '03, I</p> <p>18 think.</p> <p>19 Q. Why did you stop it?</p> <p>20 A. Well, because of the problems with</p> <p>21 CA.</p> <p>22 Q. What do you mean the problems at</p> <p>23 CA? Do you mean the disputes with CA over</p> <p>24 payment of royalties?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">94</p> <p>1 Alexander Gaugler</p> <p>2 Q. And did you tell CA that you were</p> <p>3 stopping development for that reason?</p> <p>4 A. Not that I am aware of.</p> <p>5 Q. Not that you are aware of?</p> <p>6 A. Yes, not that I am aware of.</p> <p>7 Q. And you had previously told CA that</p> <p>8 Atlantis was working on development of 3.0;</p> <p>9 right?</p> <p>10 A. Right.</p> <p>11 Q. Well, why didn't you tell them that</p> <p>12 you were stopping?</p> <p>13 A. I see no need to tell them.</p> <p>14 Q. Why in your mind did the problems</p> <p>15 with CA justify stopping development of</p> <p>16 release 3.0?</p> <p>17 A. Well, we had expected a decrease in</p> <p>18 revenue and an increase in costs.</p> <p>19 Q. Why a decrease in revenue?</p> <p>20 A. The less business with CA is less</p> <p>21 revenue for us.</p> <p>22 Q. Why did you think -- you mean by</p> <p>23 less business from CA, you mean less dollars,</p> <p>24 fewer dollars paid by CA to Atlantis, or do</p> <p>25 you mean that CA was itself entering into</p>	<p style="text-align: right;">96</p> <p>1 Alexander Gaugler</p> <p>2 to use a certain amount of money to pay</p> <p>3 lawyers, that money was not available to</p> <p>4 pay for development, is that what you're</p> <p>5 saying?</p> <p>6 A. Yes, that was one reason, that I</p> <p>7 probably will have to pay a lot of money for</p> <p>8 lawyer costs. That was one reason.</p> <p>9 And the other reason is that my time</p> <p>10 is decreasing to participate.</p> <p>11 Q. Because you were spending more time</p> <p>12 on trying to resolve the dispute with CA?</p> <p>13 (Witness gestures.)</p> <p>14 MR. JENSEN: You have to say yes.</p> <p>15 A. Yes.</p> <p>16 MR. JENSEN: I don't know want to</p> <p>17 interrupt your train of thought.</p> <p>18 MR. ZABRISKIE: I've got one more</p> <p>19 exhibit and it will be five minutes.</p> <p>20 MR. JENSEN: It's already 1:30 and</p> <p>21 we need a break.</p> <p>22 MR. ZABRISKIE: Let's just do this.</p> <p>23 Mark that as Defendant's Exhibit 4.</p> <p>24 (Whereupon, copy of two-page e-mail</p> <p>25 chain, Bates numbered A 014046 and</p>
<p style="text-align: right;">95</p> <p>1 Alexander Gaugler</p> <p>2 fewer licenses with end users for E/NAT?</p> <p>3 A. Well, most revenue comes from</p> <p>4 licenses. So that was the expectation.</p> <p>5 Q. We are not communicating.</p> <p>6 Let's go at it this way.</p> <p>7 What were the increased costs that</p> <p>8 you were expecting because of the problems</p> <p>9 with CA?</p> <p>10 A. For example, lawyers.</p> <p>11 Q. So why did having to pay lawyers</p> <p>12 justify stopping development of 3.0?</p> <p>13 A. Would you repeat that question?</p> <p>14 MR. ZABRISKIE: Could you read it</p> <p>15 back?</p> <p>16 (Whereupon, the requested portion</p> <p>17 was read back by the reporter.)</p> <p>18 A. Like I previously told you,</p> <p>19 increased costs.</p> <p>20 Q. I know, but why in your mind did</p> <p>21 having to pay lawyers justify stopping</p> <p>22 development of 3.0?</p> <p>23 A. I do not get what you mean to say.</p> <p>24 Q. Let me ask you this:</p> <p>25 Are you saying, sir, because you had</p>	<p style="text-align: right;">97</p> <p>1 Alexander Gaugler</p> <p>2 A 014047, was marked as Defendant's</p> <p>3 Exhibit 4 for identification, as of this</p> <p>4 date.)</p> <p>5 Q. I am showing you, Mr. Gaugler, what</p> <p>6 has been marked Exhibit 4, a two-page e-mail</p> <p>7 chain Bates numbered A014046 and A 014047.</p> <p>8 Would you review it, please?</p> <p>9 (Witness perusing document.)</p> <p>10 A. Did you ask me a question?</p> <p>11 Q. No. I asked you to review it.</p> <p>12 I will ask you a question.</p> <p>13 A. Okay.</p> <p>14 Q. Have you had a chance to review</p> <p>15 Exhibit 4, now?</p> <p>16 A. Not fully.</p> <p>17 Q. Well, please review it fully.</p> <p>18 I am going to really ask you about</p> <p>19 the e-mail at the top of the first page and</p> <p>20 the one below it, but take whatever time you</p> <p>21 need.</p> <p>22 A. Okay.</p> <p>23 Q. Do you recall sending and receiving</p> <p>24 the e-mails that are part of this chain?</p> <p>25 A. I recall the contents, yes.</p>

25 (Pages 94 to 97)